

Samarior, Robert

From: Vincent, Scott
Sent: Thursday, June 24, 2010 10:11 AM
To: Samario, Robert; Wiley, Stephen
Subject: RE: Fire & Police Pension Commission

Bob,

The following is a response to your email inquiry below. In addition, on the telephone this morning you asked for advice on how the Board should function with its current membership of three members (with two vacancies unfilled).

1. Jurisdiction of the Board of Fire and Police Pension Commissioners.

Section 1100 of the City Charter provides, "All eligible "local safety members" and all eligible appointive, full-time City employees, except those who are members of the pension System mentioned in Section 1101 of this Charter, shall be members of the State Employees' Retirement System unless and until the contract is terminated as hereinafter provided. Section 1100 provides for the voluntary transfer of members from the former pension system to the State Employees' Retirement System.

Section 1101 of the City Charter provides for the continuation of the Board of Fire and Police Pension Commissioners until there are no members or beneficiaries under the system. The third paragraph of Section 1101 states, "the Board of Fire and Police Pension Commissioners may invest any funds placed under its jurisdiction for investment pursuant to said Article XV-A of said preceding Charter." While Section 1101 provides for the continuation of the prior pension system, it also states that "no new or additional members shall thereafter be added to or included in said pension system."

Sections 1100 and 1101 of the City Charter were approved by election on June 3, 1980. Since 1980, no member has been added to the prior pension system and the pensions of all new safety members have been administered by PERS. Section 1101 limits the authority of the Board of Fire and Police Pension Commissioners to the investment of funds placed under their jurisdiction by the prior charter. The prior charter does not mention PERS. From my reading of Sections 1100 and 1101 of the City Charter, it is clear that the pension established pursuant to Article XV-A of the prior charter and the pension funds administered by PERS for current local safety members under the current City Charter are separate. The Board of Fire and Police Pension Commissioners does not have jurisdiction over the contributions to or investments of PERS.

2. Board Voting

Section 1101 of the City Charter provides for the continuation of the Board as provided in Article XV-A of the prior charter. Article XV-A of the prior charter provides for a Board consisting of five members. The prior charter does not specify a particular number of members as a quorum or provide any voting requirements for the Board to take action. However, Article XV-A of the prior charter does state that the Board may establish rules and regulations as they deem proper to carry out the provisions of the article.

If you have questions about how Board voting should proceed, I recommend searching for any rules or regulations that may have been adopted by the Board to govern its function. In the absence of specific rules or regulations regarding Board voting, I recommend the Board proceed with three members serving as a quorum necessary in order to conduct business and that actions of the Board be taken by majority vote of the members present at a meeting of the Board.

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